

**HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY**

WRIT PETITION No. 20978 of 2006

Between:

Basith Ahmed Khan and another.

..Petitioners

And

Debts Recovery Tribunal,
Hyderabad, rep., by its Presiding Officer,
Hyderabad and others.

..Respondents.

:ORDER:

Counsel for the petitioners : Shri Vedula Venkata
Ramana
Counsel for respondent No.2 : Shri Ch. Ravindra
Babu

October 11, 2006:

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Per G.S. Singhvi, CJ

The only substantive prayer made in this petition filed under Article 226 of the Constitution of India is to issue a Mandamus to the Debts Recovery Tribunal, Hyderabad Bench to take up and decide I.A.Nos. 58 and 59 of 2006 filed by the petitioners for setting aside order dated 20-10-2005 passed in O.A.No. 324 of 1999 and to stay further proceedings relating to the execution of certificate issued in furtherance of order dated 20-10-2005.

At the hearing, Shri V. Venkata Ramana, learned counsel for the petitioners fairly stated that hearing of the petitions filed by his clients, including the one for condonation of delay, has already been concluded and the order is likely to be announced by the Tribunal on 13-10-2006. He then submitted that till the adjudication of the applications, the respondent-bank should be restrained

from conducting the auction of his clients property, which is scheduled to be held on 12-10-2006.

We have considered the submission of Shri Venkata Ramana and are of the view that in the peculiar facts of this case, respondent No.2 –Bank should be directed not to proceed with the auction of the house property of the petitioners till the adjudication of the applications filed by them before the Tribunal for condonation of delay and for setting aside of order dated 20-10-2005 subject to the condition of deposit of Rs.12,84,390-94 Ps., specified in order dated 20-10-2005 by the petitioners.

Shri Venkata Ramana says that some time may be granted to his clients to deposit the said amount.

Shri Ch. Ravindra Babu, learned counsel for respondent No.2 admitted that the arguments in the applications filed on behalf of the petitioners have been heard and the order is likely to be pronounced on 13.10.2006.

In view of the above, the writ petition is disposed of in the following terms:

- (1) The learned Presiding Officer of the Tribunal should, as far as possible, finally adjudicate the applications filed by the petitioners for condonation of delay and setting aside order dated 20-10-2005 on the date already fixed i.e.

13.10.2006 or immediately thereafter.

- (2) The auction proposed to be conducted at the behest of respondent No.2-Bank on 12-10-2006 shall stand postponed subject to the condition that the petitioners shall deposit Rs.12,84,390-94 Ps., with the respondent No.2-Bank within a period of three weeks from today.
- (3) If the petitioners fail to deposit the amount in terms of direction No.2, then they shall forfeit the right to challenge the proceedings initiated by the Bank for recovery of the amount in terms of order dated 20-10-2005 passed by the Tribunal.

As a sequel to disposal of the main petition, W.P.M.P.No. 26608 of 2006 filed by the petitioners for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY

11-10-2006

Note:- The Court Officer is directed to give attested copies of this order to the learned counsel for the parties.

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